(4)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

Cr.Appeal No. 668 of 2005

(Memorandum of Criminal Appeal U/s 374 (2) of Cr.P.C.)

3015/05

APPELLANT IN JAIL : Bajrangi @ Mahesh S/o Bisnath Dhobi aged about 19 years , occupation sentting ,resident of Vindhyavasni Ward Dhamtari, P.S. Dhamtari (CG).

18/8/05 Sunil Sahu Advocate

Vetsus

RESPONDENT : The State of Chhattisgarh,through the District Magistrate Raipur (CG).

R to D.R.(J)

MEMORANDUM OF CRIMINAL APPEAL UNDER SECTION 374 (2) OF CrPC

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... (Cr.A. 668) **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

09/10/2006

Shri Avadh Tripathi, counsel for the appellant.

Shri MPS Bhatia, PL for State.

Heard.

Learned counsel for the appellant, at the very outset submitted that he would not assail the finding recorded by the learned trial Judge that the injuries sustained by Prakash PW-1 were inflicted by the appellant by means of a knife and would press this M.Cr.C only on the ground that considering the medical evidence of Dr. J.S. Khalsa PW-15, the offence committed by the appellant did not travel beyond Section 324 of IPC and in view of the fact that the appellant was aged 19 years on the date of occurrence and has already undergone incarceration for a period over 2 years and 7 months, the sentence awarded by the learned trial Judge should be suitably modified to imprisonment already undergone by the appellant .

On the other hand, Shri MPS Bhatia, learned Panel Lawyer for State argued in support of the impugned judgment while contending that the manner in which the injuries were repeatedly caused on vital parts, the nature of the injury sustained by Prakash and the sharp weapon with which the injuries were caused prove the guilt of the appellant under Section 307 of IPC beyond the shadow of doubt and therefore the sentence awarded by the learned trial Judge did not call for any interference.

Having considered the rival submissions, I have perused the record. It has emerged in cross-examination of Prakash PW-1 that the

P.T.O.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... Cr. A. No. 668/ **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 1-2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appellant had assaulted him by means of a sharp knife on the scalp due to which he sustained an injury over the eye lid and thereafter the appellant inflicted a second blow by the knife on his chest. Using his hands, the third assault by the appellant was prevented by him. It has also emerged in cross-examination of Dr. Khalsa PW-15 that if the injury had been lung deep death could have ensued as a result thereof.

The following injuries were sustained by Prakash PW-1:-

A/ A penetrating injury on left side of the lower chest, depth was more than skin deep, bleeding was present, triangular shaped with gaps of ½ cm x 2cm x 1cm with sharp edges. The injured was having difficulty in breathing.

B/ Incised wound on the right temporal region on forehead just lateral to the eyebrow 3cms skin deep with bleeding present.

Since the repeated assault by the appellant by means of a sharp knife on Prakash PW-1 is not in dispute, I am of the considered opinion that looking to the manner in which the injuries were caused, the weapon with which the injuries were caused, the vital parts on which the injuries were inflicted and the nature of the injuries sustained by Prakash PW-1, the learned trial Judge has rightly convicted the appellant under Section 307 of IPC. So far as the sentence awarded by the learned trial Judge is concerned, I am of the considered opinion that it also does not call for any interference.

In the result, this criminal appeal No. 668/2005 being devoid of merit is dismissed.

Sd-/
Dilip Raosaheb Deshmukh
Judge

12-10-06